



**Northampton Special Act Charter  
Drafting Committee**

*David P. Stevens, Chair  
Gail L. Perlman  
Madeline Weaver Blanchette  
Marc Warner  
Richard Greene*

*Todd Thompson  
William Scher  
Thomas Miranda  
Megan Murphy Wolf*

*Stephen McGoldrick, Deputy Director, Edward J. Collins, Jr. Center for Public Management, University of  
Massachusetts*

**Tuesday, January 17, 2012  
5:00 p.m. – 8:00 p.m.  
City Council Chambers  
Wallace J. Puchalski Municipal Building,  
212 Main Street, Northampton, MA**

**Agenda:**  
Final Meeting of the Special Act Charter Drafting Committee

**Chair David Stevens called the meeting to order at 5:00 p.m.**

Members present: David Stevens, Madeline Weaver Blanchette, Todd Thompson, Richard Greene, Gail Perlman, Thomas Miranda, Stephen McGoldrick, William Scher, and Marc Warner. The meeting was audio-taped. Emily Odgers, North Street Association videotaped the meeting.

**Public Comment:**

Barry Roth stated his simple suggestion to include the pros and cons of all issues – City Council should allow formal presentation of opposing point of view. Mr. Roth stated that was the reason Michael Bardsley ran for Mayor; citizens want to be heard.

Discussions centered on length of term for Mayor, City Council and School Committee, City Clerk position, powers of the executive branch, City Council, and School Committee, Citizen Access and Elections, as indicated in the attached pages of the proposed.

The Committee discussed final narratives, with reasoning as to why pro or con for changes. The Committee decided that the final narrative should be only 5-7 pages, to be completed over the weekend. The Committee discussed individual narratives as attached. The final narrative will be submitted before the February 2, 2012 City Council meeting. The City Council will have eight weeks to review the proposed Charter and Executive Summary and Narratives. The Clerk was asked to set up one last meeting for this Committee on January 30, 2012 at 5:00 p.m.

**The meeting adjourned at 7:50 p.m.**

*Respectfully submitted,  
Mary L. Midura  
Executive Secretary*





**CITY OF NORTHAMPTON, MASSACHUSETTS  
SPECIAL ACT CHARTER DRAFTING COMMITTEE  
CHARTER RECOMMENDATION**

David P. Stevens, Chair  
Madeline Weaver Blanchette  
Richard Greene  
Thomas Miranda  
Gail L. Perlman  
William Scher  
Todd Thompson  
Marc Warner  
Megan Murphy Wolf

**January 2012**

## ARTICLE 2

### LEGISLATIVE BRANCH

#### **SECTION 2-1: COMPOSITION; TERM OF OFFICE; ELIGIBILITY**

(a) *Composition* - There shall be a city council consisting of 9 members which shall exercise the legislative powers of the city. Two of these members, to be known as councilors-at-large, shall be nominated and elected by and from the voters at large. Seven of these members, to be known as ward councilors, shall be nominated and elected by and from the voters from each ward; 1 such ward councilor to be elected from each of the 7 wards into which the city is divided under section 7-7.

(b) *Term of Office* - The term of office for councilors shall be 2 years each, beginning on the first Monday in the January succeeding their election, except when said first Monday falls on a legal holiday, in which event the term shall begin on the following day, and until their successors have been qualified.

(c) *Eligibility* - Any voter shall be eligible to hold the office of councilor-at-large. A ward councilor must be a voter in the ward from which election is sought. If a ward councilor or a councilor-at-large removes from the city during the term for which elected, such office shall immediately be deemed vacant and filled in the manner provided in section 2-11. A ward councilor who removes from the ward from which elected and who remains a resident of the city may continue to serve during the term for which elected.

#### **SECTION 2-2: PRESIDENT AND VICE-PRESIDENT, ELECTION; TERM; POWERS**

(a) *Election and Term* - As soon as practicable after the councilors-elect have been qualified following each regular city election, as provided in section 10-11, the members of the city council shall elect from among its members a president and vice-president who shall serve for 2 year terms. The method

have been adopted during the first 18 months of the term for which the city council is elected and unless it provides that the salary increase is to take effect upon the organization of the city government following the next regular city election.

## **SECTION 2-5: GENERAL POWERS**

Except as otherwise provided by general law or by this charter, all powers of the city shall be vested in the city council which shall provide for their exercise and for the performance of all duties and obligations imposed upon the city by law.

## **SECTION 2-6: EXERCISE OF POWERS; QUORUM; RULES**

(a) *Exercise of Powers* - Except as otherwise provided by general law or by this charter, the legislative powers of the city council may be exercised in a manner determined by it.

(b) *Quorum* - The presence of 5 members shall constitute a quorum for the transaction of business. Except as otherwise provided by general law or by this charter, the affirmative vote, taken by roll call vote, of 6 members shall be required to adopt an appropriation order. Except as otherwise provided by law or this charter, the affirmative vote, taken by roll call vote, of a majority of the full city council shall be required to adopt any ordinance.

(c) *Rules of Procedure* - The city council shall from time to time adopt rules regulating its procedures, which shall be in addition to the following:

(i) Regular meetings of the city council shall be held at a time and place fixed by ordinance. All regular meetings of the city council shall provide for a period of public comment, provided however, the city council may promulgate rules that regulate such period of public comment as deemed appropriate.

(ii) Special meetings of the city council shall be held at the call of the president or at the call of any 3 or more members, for any purpose. Notice of said meeting shall, except in an emergency of which the president shall be

the sole judge, be delivered to each member at least 48 weekday hours in advance of the time set and shall specify the date, time, and location of the meeting and the purpose or purposes for which the meeting is to be held. A copy of each such notice shall immediately be posted as the general laws relative to such postings shall require.

(iii) All sessions of the city council and of every committee or subcommittee of the council shall at all times be open to the public unless another provision is allowed by law.

(iv) A full, accurate, up-to-date account of the proceedings of the city council shall be maintained by the city clerk, which shall include a record of each vote taken, and which shall be made available with reasonable promptness following each meeting, but not later than the next regularly scheduled meeting. Unless otherwise provided by law, the minutes of any executive session shall be made available as soon as their publication would not defeat the lawful purposes of the executive session.

## **SECTION 2-7: ACCESS TO INFORMATION**

*(a) In General* - The city council may make investigations into the affairs of the city and into the conduct and performance of any city agency.

*(b) Information Requests* - The city council may require any member of an appointed multiple-member body or any city employee to appear before it to give any information that the city council may require in relation to the municipal services, functions, powers, or duties which are within the scope of responsibility of that person and not within the jurisdiction of the school committee.

*(c) Mayor* - The city council at any time may request from the mayor specific information on any municipal matter and may request the mayor to be present to answer written questions relating thereto at a meeting to be held not earlier than 7 days from the date of the receipt by the mayor of said questions. The mayor shall personally, or through any designated city

employee, attend such meeting and respond to said questions. The mayor or the person so designated to attend shall not be required to answer questions relating to any other matter.

(d) *Notice* - The city council shall give a minimum of 7 days notice to any person it may require to appear before it under the provisions of this

section. The notice shall include specific questions on which the city council seeks information, and no person called to appear before the city council under this section shall be required to respond to any question not relevant or related to those presented in advance and in writing.

#### **SECTION 2-8: APPOINTMENTS OF THE CITY COUNCIL**

Subject to appropriation, the city council may employ such staff as it deems necessary.

#### **SECTION 2-9: ORDINANCES AND OTHER MEASURES**

(a) *Measures*- No measure shall be passed finally on the date on which it is introduced, except in the case of an emergency. Except as otherwise provided by the charter, every adopted measure shall become effective at the expiration of 10 days after adoption or upon the signature of the mayor, whichever occurs first. No ordinance shall be amended or repealed except by another ordinance adopted in accordance with the charter, or as provided in the initiative and referendum procedures.

(b) *Emergency Measures*- An emergency measure shall be introduced in the form and manner prescribed for measures generally except that it shall be plainly designated as an emergency measure and shall contain statements after the enacting clause declaring that an emergency exists and describing the scope and nature of the emergency in clear and specific terms. A preamble which declares and defines the emergency shall be separately voted on and shall require the affirmative vote of 2/3 of the full city council. An emergency measure may be passed with or without amendment or rejected at the meeting at which it is introduced. No measure making a

grant, renewal or extension, whatever its kind or nature, or a franchise or special privilege shall be passed as an emergency measure, and except as provided by the laws of the Commonwealth, no such grant, renewal or extension shall be made otherwise than by ordinance. An emergency measure shall become effective upon adoption or at such later time as it may specify.

*(c) Charter Objection-* On the first occasion that the question on adoption of a measure is put to the city council, if a single member present objects to the taking of the vote, the vote shall be postponed until the next meeting of the city council whether regular or special. If 2 members present shall object, such postponement shall be until the next regular meeting; if is an emergency measure at least 4 members must object. This procedure shall not be used more than once for any specific matter notwithstanding any amendment to the original matter. A charter objection shall have privilege over all motions but must be raised prior to or at the call for a vote by the presiding officer and all debate shall cease.

## **SECTION 2-10: CITY COUNCIL CONFIRMATION OF CERTAIN APPOINTMENTS**

The mayor shall refer to the city council and simultaneously file with the city clerk, the name of each person the mayor desires to appoint as a department head or as a member of a multiple-member body, but not including any position which is subject to the civil service law. The city council shall refer each name submitted to it to a standing committee of the council which shall review each candidate for appointment and shall make a recommendation to the full city council not less than 7 nor more than 45 days after the referral. The committee may require any person whose name has been referred to it to appear before the committee, or before the city council, to give any information relevant to the appointment that the committee, or the city council, may require. Appointments made by the

mayor shall become effective on the forty-fifth day after the date on which notice of the proposed appointment was filed with the city clerk unless approved or rejected by the city council within the 45 days.

### **SECTION 2-11: FILLING OF VACANCIES**

If a vacancy in the office of councilor occurs prior to the eighteenth month of the term for which the councilor is elected, the city council shall forthwith, in the manner provided in section 7-1, order a special election to be held within 90 days following the date the vacancy is created, to fill such vacancy until the next regular city election. The person elected at such regular city election shall be sworn to office immediately. If a regular city election is to be held within 120 days following the date the vacancy is created, a special election need not be held and the office shall be filled by the voters at such regular city election. Election to fill the vacant seat of a ward councilor shall be held only in the affected ward, while an election to fill a vacant seat of a councilor-at-large shall be held in all wards of the city.

## **ARTICLE 3**

### **EXECUTIVE BRANCH**

#### **Section 3-1: MAYOR: QUALIFICATIONS; TERM OF OFFICE; COMPENSATION; PROHIBITIONS**

(a) *Mayor, Qualifications* – The chief executive officer of the city shall be a mayor, elected by and from the voters of the city at large. Any voter shall be eligible to hold the office of mayor. The mayor shall devote full time to the office and shall not hold any other elective public office.

(b) *Term of Office* – The term of office of the mayor shall be 4 years, beginning on the first Monday in the January succeeding his or her election, except when said first Monday falls on a legal holiday, in which event the term shall begin on the following day, and until the mayor's successor has been qualified.

or materials as the mayor may request and as the needs of the office of mayor and the interest of the city may require. The mayor shall supervise, direct and be responsible for the efficient administration of all city activities and functions placed under the control of the mayor by law or by this charter. The mayor shall be responsible for the efficient and effective coordination of the activities of all agencies of the city and for this purpose shall have authority consistent with law to call together for consultation, conference and discussion at reasonable times all persons serving the city, whether elected directly by the voters, chosen by persons elected directly by the voters, or otherwise. The mayor shall be, by virtue of the office, a member of every appointed multiple member body of the city. The mayor shall have a right, as such ex officio member, to attend any meeting of any appointed multiple member body of the city, at any time, including, so called executive sessions, to participate in the discussions, to make motions and to exercise every other right of a regular member of such body, but not including the right to vote.

### **SECTION 3-3: APPOINTMENTS BY THE MAYOR**

The mayor shall appoint, subject to the review of such appointments by the city council as provided in section 2-10, all city officers and department heads and the members of multiple-member bodies for whom no other method of appointment or selection is provided by the charter, excepting only persons serving under the school committee, and persons serving under the city council. All appointments to multiple-member bodies shall be for terms established in accordance with the provisions of Article 6. Upon the expiration of the term of any member of a multiple-member body, a successor shall be appointed as provided for in accordance with the provisions of Article 6. The mayor shall fill any vacancy for the remainder of the unexpired term of any member of a multiple-member body. All appointments and promotions made by the mayor shall be made on the

acts performed under any such delegation of authority during such period of authorization shall be and remain the acts of the mayor. Nothing in this section shall be construed to authorize a mayor to delegate the powers and duties as a school committee member, the power of appointment to city office or employment or to sign or return measures approved by the city council.

### **SECTION 3-9: VACANCY IN OFFICE OF MAYOR**

(a) If a vacancy in the office of mayor occurs prior to the eighteenth month of the term for which the mayor is elected, the city council shall forthwith, in the manner provided in section 8-1, order a special election to be held within 90 days following the date the vacancy is created, to fill such vacancy until the next regular city election. The person elected at such regular city election shall take office immediately. If a regular city election is to be held within 120 days following the date the vacancy is created a special election need not be held and the office shall be filled by vote at such regular city election.

(b) If a vacancy in the office of mayor occurs between the nineteenth and twenty-second month of the term for which the mayor is elected, the city council president shall serve as mayor until the next regular election. The person elected as mayor under this subsection shall take office immediately and serve for the balance of the then unexpired term.

(c) If a vacancy in the office of mayor occurs during the twenty-third and fortieth month of the term for which the mayor is elected, the city council shall forthwith, in the manner provided by section 8-1, order a special election to be held within 90 days following the date the vacancy is created, to serve for the balance of the then unexpired term.

(d) If a vacancy in the office of mayor occurs during or after the forty-first month of the term for which the mayor was elected, the city council president shall serve for the balance of the then unexpired term.

commencement of the budget process to review the financial condition of the city, revenue and expenditure forecasts, and other relevant information prepared by the mayor in order to develop a coordinated budget.

### **SECTION 7-3: SUBMISSION OF OPERATING BUDGET; BUDGET**

#### **MESSAGE**

At least 45 days before the beginning of the fiscal year, the mayor shall submit to the city council a proposed operating budget for all city agencies, which shall include the school department, for the ensuing fiscal year with an accompanying budget message and supporting documents. The budget message submitted by the mayor shall explain the operating budget in fiscal terms and in terms of work programs for all city agencies. It shall outline the proposed fiscal policies of the city for the ensuing fiscal year, describe important features of the proposed operating budget and include any major variations from the current operating budget, fiscal policies, revenues and expenditures together with reasons for these changes. The proposed operating budget shall provide a complete fiscal plan of all city funds and activities and shall be in the form the mayor deems desirable, provided however, that the budget for elected officials shall identify the cost of compensation and the cost of benefits for those officials. The school budget, as adopted by the school committee shall be submitted to the mayor at least 30 days before the submission of the proposed operating budget to the city council. The mayor shall notify the school committee of the date by which the proposed budget of the school committee shall be submitted to the mayor. The mayor and the superintendent of schools shall coordinate the dates and times of the school committee's budget process under the General Laws.

### **SECTION 7-4: ACTION ON THE OPERATING BUDGET**

*(a) Public Hearing* - The city council shall publish in at least 1 local newspaper a notice of the proposed operating budget as submitted by the

This information is to be annually revised by the mayor with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

*(b) Public Hearing* - The city council shall publish in at least one newspaper of general circulation in the city a notice stating: (1) the times and places where entire copies of the capital improvements program are available for inspection by the public; and, (2) the date, time and place not less than 14 days after such publication, when a public hearing on said plan will be held by the city council.

*(c) Adoption* - At any time after the public hearing but before the first day of the last month of the current fiscal year, the city council shall by resolution adopt the capital improvements program with or without amendment, provided that each amendment must be voted separately and that any increase in the capital improvements program as submitted must clearly identify the method of financing proposed to accomplish such increase.

#### **SECTION 7-6: INDEPENDENT AUDIT**

The city council shall annually provide for an outside audit of the books and accounts of the city to be conducted by a certified public accountant, or a firm of certified public accountants, which has no personal interest, direct or indirect, in the fiscal affairs of the city or any of its officers. The mayor shall annually provide to the city council a sum of money sufficient to satisfy the estimated cost of conducting the audit as presented to the mayor, in writing, by the city council. The award of a contract to audit shall be made by the city council on or before September 15 of each year. The clerk of the council shall coordinate the work of the individual or firm selected. The report of the audit shall be filed in final form with the city council not later than March 1 in the year following its award.

at least 250 voters. At least 25 signatures must be certified from each ward. The petition shall be accompanied by an affidavit signed by 10 voters and containing their residential address stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form.

*(b) Referral to City Solicitor* - The city clerk or the secretary of the school committee shall, immediately following receipt of a proposed petition, deliver a copy of the petition to the city solicitor. The city solicitor shall, within 15 days following receipt of a copy of the petition, in writing, advise the city council or the school committee and the city clerk whether the measure as proposed may lawfully be proposed by the initiative process and whether, in its present form it may be lawfully be adopted by the city council or the school committee. If the opinion of the city solicitor is that the measure is not in proper form, the reply shall state the reasons for this opinion, in full. A copy of the opinion of the city solicitor shall be mailed to the members of the petitioners committee.

*(c) Submission to City Clerk* - If the opinion of the city solicitor is that the petition is in a proper form, the city clerk shall provide blank forms for the use of subsequent signers, and shall print at the top of each blank form a fair, concise summary of the proposed measure, as determined by the city solicitor, together with the names and addresses of the first 10 voters who signed the originating petition. The city clerk shall notify the first 10 voters that the blank forms are issued. Within 30 days following the date of such notice, the petition shall be returned and filed with the city clerk signed by at least 10 percent of the total number of registered voters as of the date of the most recent regular city election. Signatures to an initiative petition need not all be on 1 paper, but all papers pertaining to any one measure shall be fastened together and shall be filed as a single instrument, with the endorsement on it of the name and residence address of the person

question shall vote in favor of the measure or part protested against at the election.

### **SECTION 9-3: INELIGIBLE MEASURES**

None of the following shall be subject to the initiative or the referendum procedures:

- (1) proceedings relating to the internal organization or operation of the city council or of the school committee;
- (2) an emergency measure adopted under the charter;
- (3) the city budget or the school committee budget as a whole;
- (4) any appropriation for the payment of the city's debt or debt service;
- (5) an appropriation of funds to implement a collective bargaining agreement;
- (6) proceedings relating to the appointment, removal, discharge, employment, promotion, transfer, demotion, or other personnel action;
- (7) any proceedings repealing or rescinding a measure or part of it which is protested by referendum procedures;
- (8) any proceedings providing for the submission or referral to the voters at an election; and
- (9) resolutions and other votes constituting ordinary, routine matters not suitable as the subject of a referendum petition.

### **SECTION 9-4: REQUIRED VOTER PARTICIPATION**

For any measure to be effective under initiative procedure and for any measure to be declared null and void under any referendum procedure, at least 20 percent of the voters as of the most recent regular city election must vote at an election that includes on the ballot submission to the voters of one or more initiative or referendum questions.

### **SECTION 9-5: SUBMISSION OF OTHER MATTERS TO VOTERS**

The city council may of its own motion, and shall, at the request of the school committee, if a measure originates with that body and pertains to

or appointment from the city clerk. Except as otherwise provided by law, every person who is elected, including those elected by the city council, or appointed to an office of the city, before performing any act under this appointment or election, shall take and subscribe to an oath or affirmation to qualify to enter upon the duties. A record of this oath shall be kept by the city clerk.

#### **SECTION 10-13: LIMITATION ON OFFICE HOLDING**

Unless otherwise allowed by law or this charter, no person shall simultaneously hold more than 1 city office or position of employment. This provision may be waived by the mayor upon the appointment of any person to any additional office or position of employment by filing a notice of such waiver with an explanation and justification with the city clerk.

#### **SECTION 10-14: FELONY CONVICTION**

Any elected official who has been convicted of a state or federal felony while holding office shall be deemed to have vacated said office.

#### **SECTION 10-15: ENFORCEMENT OF CHARTER PROVISIONS**

It shall be the duty of the mayor to see that the charter is faithfully followed and complied with by all city agencies and city employees. Whenever it appears to the mayor that any city agency or city employee is failing to follow any provision of this charter the mayor shall, in writing, cause notice to be given to that agency or employee directing compliance with the charter. If it shall appear to the city council that the mayor personally is not following the provisions of the charter it shall, by resolution, direct the attention of the mayor to those areas in which it believes there is a failure to comply with charter provisions. The procedures made available in chapter 231A of the General Laws may be used to determine the rights, duties, status or other legal relations arising under this charter, including any question of construction or validity which may be involved in such determination.

## **ARTICLE 11**

### **TRANSITIONAL PROVISIONS**

#### **SECTION 11-1: CONTINUATION OF EXISTING LAWS**

All general laws, special laws, city ordinances, and rules and regulations of or pertaining to Northampton, including special acts creating regional entities and arrangements of which the city is a member, that are in force when this charter takes effect, and not specifically or by implication repealed by this charter, shall continue in full force and effect until amended or repealed, or rescinded by law, or until they expire by their own limitation. In any case in which the provisions of this charter are found to be inconsistent with the provisions of any general or special law that would otherwise be applicable, the provisions of this charter shall be deemed to prevail. Every inconsistency between the prior law and this charter shall be decided in favor of this charter.

#### **SECTION 11-2: CONTINUATION OF GOVERNMENT AND ADMINISTRATION**

All city agencies shall continue to perform their duties until re-elected, reappointed, or until successors to their respective positions are duly appointed or elected, or until their duties have been transferred and assumed by another city agency.

#### **SECTION 11-3: TRANSFER OF RECORDS AND PROPERTY**

All records, property and equipment whatsoever of any city agency, or part thereof, the powers and duties of which are assigned in whole or in part to another city agency, shall be transferred immediately to that agency.

#### **SECTION 11-4: EFFECT ON OBLIGATIONS, TAXES, ETC.**

All official bonds, recognizances, obligations, contracts, and other instruments entered into or executed by or to the city before the adoption of this charter, and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the city, shall be enforced and

establishing a board of public works and department of public works; and Chapter 166 of the Acts of 2005 shall remain in effect.

(8) Forthwith following the 2013 city election, the persons elected as members of the city council shall meet for the sole purpose of reviewing and revising policies and procedures, rules, or interim rules that will govern the conduct of the business of the city council until such time, following the taking of their oath or affirmation, when the city council adopts permanent rules. Such meetings shall be called by the council member-elect most senior in age and shall be open to the public, although the business of any such meetings shall be confined to the topics identified here. The city clerk shall serve as an advisor to the city council-elect in this endeavor.

(9) Until such time as another salary is established in accordance with the provisions of this charter, the initial of salary for the mayor, city councilor and school committee member shall be that which is in effect on the date of the 2013 regular city election.

(10) Within 180 days after the passage of this Act, the city council shall enact an ordinance establishing an Elected Official Compensation Advisory Board. Said ordinance shall contain provisions that the board shall periodically, but no less frequently than 10 years, study the adequacy and equity of the compensation, benefits and expense allowances of municipal elected officials and report its findings and recommendations to the mayor and city council and said reports shall be filed with the city clerk. Said ordinance shall further specify the composition, term of office and method of appointment of the members of said board and any other provisions deemed appropriate by the city council.

(11) The mayor and the city council in office at time this charter is adopted, and the mayor and successor city council elected pursuant to this charter, shall have the authority to adopt measures that clarify, confirm, or extend any of the transitional provisions in order that such transition may be made

# NORTHAMPTON SPECIAL ACT DRAFTING COMMITTEE

## DECISION TOPICS

### City Council

Composition

Term

Term Limit

Vacancies

Confirmation Powers

Multiple Member Bodies

Employees

### Mayor

Term

Term Limit

Vacancies

Appointing Authority

ROLE OF MAYOR CHAIRING CC/SC

### School Committee

Composition

Term/Staggering Issue

Vacancies

Term Limit

### Other Elected Officials

City Clerk

### Elections

Preliminary

Signature Requirements

### Citizen Participation

Inclusion/Signature Thresholds

Free Petition

Initiative

Referendum

Recall

### Elected Official Compensation

## GRADIENTS OF AGREEMENT

Endorsement "I like it."	Endorsement with a Minor Point of Contention "Basically I like it."	Agreement with Reservations "I can live with it."	Abstain "I have no opinion."	Stand Aside "I don't like this, but I don't want to hold up the group."	Formal Disagreement, but Willing to Go with Majority "I want my disagreement noted in writing, but I'll support the decision."	Block "I veto this proposal."
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# Length of Term for Mayor, City Council and School Committee

## Mayor

The Charter Committee recommends that the term of mayor be extended from a two (2) to a four (4) year term.

The Committee makes this recommendation after carefully discussing the following issues:

- Continuity of the executive body
- Impact on elections upon city business
- Money and influence in elections
- Accountability of the Mayor to the citizens
- How to attract ~~the best candidates~~ *QUALIFIED + DIVERSE*
- How to increase voter participation
- Concern over electing someone unfit to a 4 year term
- Concern over "burn out"
- Options for a three (3) year term compromise

After thorough exploration of each of these points, the Committee recommends a four (4) year term. Our reasons are these:

- Increasing the term of office for the Mayor to 4 years will attract ~~the best~~ *more* candidates, engage voters by increasing the stakes of the election, and we believe will increase voter turnout.
- Changing the term of office to four (4) years will give greater continuity of government and policies to the City, decrease disruptions due to elections, and make it less necessary for candidates to assume a perpetual fundraising and campaigning posture.
- The Committee was concerned that there will be less accountability to the voters with a 4 year term, but that we can trust the voters of this city to make a wise choice and should the Mayor not be responsive to the citizens, then they will have the opportunity to send that message to the office with the midterm City Council elections.

During the public forum, there was significant interest in three (3) year Mayoral terms. The Committee determined that by having three (3) year terms the City would be required to hold elections in the spring because state law prohibits municipal elections at the same time as state and federal.

## City Council

The Charter Committee leaves the term of City Council at two (2) years. The Committee addressed the following issues:

- How do we attract the best candidates for these positions given the work load and compensation
- What is the appropriate length of term for the ~~lower~~ *LEGISLATIVE* body of city government

The Committee decided that maintaining the two (2) year term for the following reasons:

- The work required in this position, relative to the amount of compensation is available
- A four (4) year term would make the City Council positions less attractive to excellent candidates.
- Holding elections every two years keep the body "closer" to the citizens they represent.

## School Committee

The Charter Committee recommends that the term of office for a School Committee member be 2 years for ward and at-large members. The Committee addressed the following issues:

- Confusion over the rotation of elections
- How to attract ~~the best candidates~~ *greater interest*

As we heard in the first public forum, the system of having the at-large members serve two (2) years and the ward members serve four (4) years with elections held on a rotating basis leaves the constituency confused about when they'll be voting and sets up an unnecessarily inequitable relationship between the ward and at-large members.

## Term Limits

The Committee considered term limits for all elected positions and decided to not include them for any office. These, among other, issues were considered:

- The advantage of incumbency
- Do term limits increase participation
- How do we maintain an experienced and dedicated elected body
- Are elections in fact term limits

There were strong opinions at the public forums and within the Committee on both sides of this issue. The Committee ultimately decided that the public would decide at the polls if someone has served long enough and that term limits deprive the city of experienced and dedicated individuals.

## SHOULD CITY CLERK BE AN ELECTED OFFICIAL OR AN APPOINTED POSITION

The charter commission deliberated extensively regarding the pros and cons of the City Clerk being elected, or being appointed by the Mayor subject to City Council approval, or appointed by City Council. The Committee consensus is that City Clerk should remain an elected official in the City of Northampton. The following is an outline of the concerns raised regarding whether the position should be an appointed position or an elected position.

The City Clerk has responsibilities guided almost entirely by state statutes. Those responsibilities if administered incorrectly have potential for significant impact on the citizens in the documentation of filings, keeping of records, accessibility to official information maintained by the office, etc.

The Committee recognizes that it is critical that the individual serving as City Clerk is effective and efficient in administering the responsibilities of that position and able to effectively communicate with the public and the several city boards which rely upon the City Clerk for filing requirements and other information.

The City Clerk must know the detailed statutory responsibilities, and therefore the Clerk should be someone with the appropriate skills. The position should be filled by a person most competent to administer the duties of the City Clerk and free from potential influence.

We discussed the likelihood that an appointment by either the Mayor or the City Council vetting the field of applicants would result in choosing the professional with the appropriate knowledge and skills needed to administer this very important position. This should decrease the risk of error in conducting public responsibilities required by the position.

Several members of the charter committee stated that in a perfect world the position should be an appointed position and not elected, even though this is a significant change in the way that city government is administered. Several members of the committee believe this significant change is appropriate and a step forward to achieve efficiency in the administration of city government.

After extensive discussion the consensus of the committee is that we do not live in a perfect world. It is a major concern that the appointment would become a political appointment, subject to influence by the appointing body and subject to change with successive administrations, potentially resulting in a lack of continuity in the Office and resulting in a lack of neutrality in the Office of Clerk.

Another concern that many members shared is that if there was a change from election to appointment, this could be a poison pill that would result in significant opposition to the passage of a proposed charter, and we did not want to risk that the proposed charter would not pass in part because of this change.

We discussed a grandfathering provision to allow Ms. Mazza to remain in the position of City Clerk as long as she so desired. Some members of the committee believed that to do so would run the risk of Ms. Mazza enjoying the ability to hold

the position of Clerk without oversight by the public through election, or by the appointing authority whether it be the Mayor or the City Council.

We reviewed the recent 30 to 40 year history of individuals who have held the position of City Clerk. Each held the office for significant periods of time.

Throughout our deliberation issue we discussed and considered the input received from current and former city officials, and several members of the public as was relevant to each of the concerns we discussed.

After considering all of the foregoing we came to the consensus that the City of Northampton would be better served by not changing the method of choosing our City Clerk.

The Special Act Charter Drafting Committee reviewed the current structure of the City Council and found no compelling reason to change the number of councilors or the length of terms. Though there was some concern raised about the lack of competition for many Council seats, comfort was widely shared among Committee members and citizens with the number of constituents each Councilor represents, the cohesion of the ward neighborhoods, the workload amount each Councilor is able to handle and the equity of stature between At-Large and Ward representatives.

### *Chairmanship of Council Meetings*

The Committee concluded that city governance will benefit from a clearer separation of powers by transferring the chairmanship of City Council meetings from the Mayor to the City Council President. While Committee members generally agreed that it is healthier for the Council and the Mayor to have a collaborative relationship instead of an adversarial one, such a relationship can be fostered without requiring the head of the city's executive branch directly manage the affairs of the legislative branch. Almost no cities or towns in Massachusetts have the mayor run council meetings, and the state does not suffer from widespread acrimony at the local level.

Although the majority of the public comment received was in favor of this change -- including from the current and previous mayor -- notable arguments to maintain the current arrangement were raised and considered by the Committee.

One was that the setting of the agenda is best made by someone working full-time on behalf of the city, while councilor positions are part-time. However, since the charter specifies that the agenda should still be developed in consultation with the Mayor, we do not expect any setbacks in the ability of our government to set the course for our city.

Further, the Mayor does not need to run Council meetings, or even be present at all Council meetings, for the two branches to regularly communicate with each other and maintain a working relationship. Our proposal also gives the Council the power to require the Mayor attend meetings and answer specific questions upon request, to ensure they can communicate in public when necessary. Conversely, councilors retain the same rights as they currently possess to challenge and reject proposals and appointments from the Mayor if they believe such actions would best serve the public interest.

A second concern was that relationships between councilors may become strained if jockeying for the position of President became more heated as the result of this switch. We were not persuaded that this scenario was a certainty or would degrade the ability of the Council to function.

Ultimately, we concluded that the blurring of lines between executive and legislative branches was unhelpful for citizens seeking to connect with their government, and was not the basis of what has been a productive relationship between the two branches.

### *Creation of a Vice-President*

Since the Committee proposes changes to how a permanent mayoral vacancy is filled, it was necessary to also propose a new position of Vice-President of the City Council.

Currently, the City Council President serves as "acting" Mayor if a vacancy occurs until the next scheduled municipal election, while continuing to serve on the Council. The Committee proposes creating a special election to name a new Mayor, unless the vacancy occurs within six months of a general municipal election. In that case, the City Council President becomes Mayor and leaves the Council (thus ending the awkward circumstance of having someone occupy two branches of government at once), and the Vice-President becomes President. The Vice-President also handles the duties of the President in the case of temporary absences.

Presumably, if the person initially serving as City Council President was not planning to leave the Council

permanently, he or she would already be planning to run in the next scheduled election, and would have the opportunity to quickly return to the Council.

### *Setting of Fees*

Two current members of the City Council raised a concern that it was inappropriate for the Board of the Public Works to have the sole power to set water and sewer fees, as the current charter dictates, since the power to effectively tax citizens should rest in the hands of an elected body. Another councilor raised a counter-argument, that the setting of water and sewer fees was a complicated, technical matter that needs to be handled by people with professional expertise.

The Committee concluded this should not be a matter dictated by the charter. The Council, as representatives of the public, can decide where the power to set fees properly rests.

### *Confirming Mayoral Appointments*

Two members of the City Council proposed changing the process for confirming mayoral appointments. Currently, the Mayor nominates, and the Council can accept or reject. The proposed change would give councilors, and other members of the public, to ability to make competing nominations directly to the full Council.

The Committee concluded such a change was not necessary to give the Council influence in the nomination process, and could damage the ability of city government to attract people to serve in volunteer positions.

The Council already has the ability to make suggestions and express concerns to the Mayor early in the nomination process, and reject nominees if suggestions are unheeded. Similarly, members of the public can let the Mayor or the Council know if they believe a certain person deserves consideration.

To complicate the process with last-minute nominations after the Council has vetted mayoral nominees at the committee level would unnecessarily elongate the process and make it harder for citizen panels to function. Furthermore, forcing people to be subjected to potential public humiliation as councilors openly debate qualifications of competing nominees, just to serve in volunteer positions, could make it harder to convince strong candidates to accept nominations.

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## Compensation of Elected Officials

The City Council has the authority under the current city charter to set the salaries of elected officials through ordinance (legislation), while the Mayor retains the legal discretion under state law to determine elected officials' eligibility for benefits, including participation in the City's group health and life insurance plans. Under the proposed charter, the City Council and Mayor will retain these powers.

The committee recognized, though, that the compensation (defined as salaries plus benefits) of elected officials is a politically charged issue. We were advised by our consultant that the Charter Drafting Committee might want to take up this issue to provide <sup>A Venice</sup> ~~political cover~~ for the Council to make any recommended changes. The committee decided the question of appropriate compensation required more in-depth research and discussion, preferably on an ongoing basis, to make sure that compensation practices reflect the will and interests of the citizenry.

Consequently, the committee proposes establishment of a permanent Elected Official Compensation Advisory Board comprised of citizens that would periodically meet to review the compensation of elected officials, and make recommendations to the City Council accordingly.

The committee also recognized that current compensation procedures entail inherent conflicts of interest and the potential for patronage abuse (??? See yesterday's email). The committee decided it was vital to ensure the utmost transparency around compensation practices without unduly restricting the powers of the City Council and Mayor to set compensation. We propose that the Mayor be required to submit a separate appropriations request to the City Council for all non-salary compensation, including benefits such as participation in the City's group health and life insurance plans, made available to elected officials.

## **POWERS OF THE EXECUTIVE BRANCH**

The Committee considered the broad qualifications of the mayor, the mayor's current role in chairing city council meetings, chairing and voting in school committee meetings, and exclusive power to nominate citizens to city boards. The Committee, after some debate and dissension, agreed to strike language prohibiting the mayor from engaging in any other business, occupation or profession during his/her term, and transferred the city council's chairmanship to the president of city council. The Committee unanimously declined to adopt a change to the current provision for the mayor presiding and voting on the school committee, nor to the mayor's exclusive nominating power.

### **I. MAYORAL QUALIFICATIONS**

Characteristics:

- The mayor must devote full time to the office, and shall not hold any other elective public office. However, the mayor will not be explicitly barred from engaging in any other business, occupation or profession during the period of service as mayor.

Pros:

- The mandate that a mayor must devote full time to office is sufficient to ensure that citizens receive a full-time mayor without divided loyalties.
- Between voter oversight and conflict of interest rules, there are sufficient checks on a mayor self-dealing.
- A total prohibition on "engaging in any other business," is too broad and too vague, and would prevent a mayor from maintaining any interest in any businesses, including one that would not negatively impact the office, such as receiving royalties from a previously published book.

Cons:

- Any chance that a mayor may actively engage in a business or a profession outside of his or her office is too detrimental to the city to avoid express prohibition.

### **I. CITY COUNSEL MEETINGS**

Characteristics:

- The City Council President will preside over City Council meetings.

Pros:

- This structure of government will better reflect the Federal model of a separation between executive and legislative power.
- This structure will reflect a model endorsed by ~~the great~~ majority of citizens, and past and current city officials who made comments to this Committee.
- This structure will better balance power where the mayor now has a four-year term.
- The structure will reflect the current practice of all Massachusetts municipal governments, but one.

Cons:

- This structure will be less streamlined and, thereby, less efficient.
- This structure may prevent the mayor from contributing to city council debate.
- This structure may prevent the mayor from adding items to the city council agenda.
- This structure may substantially increase the work load of city council members.

### **III. SCHOOL COMMITTEE MEETINGS**

Characteristics:

- The mayor will continue to preside over and vote in school committee meetings.

Pros:

- Since the Educational Reform Act of 1993, school committees have had their power as separate legislative bodies significantly diminished. Thus, allowing the executive branch of Northampton's government to preside over and vote in the

school committee does not pose an acute threat to the separation of powers.

- This structure reflects the significance of the school committee budget to the city.
- This structure reflects a model endorsed by a majority of citizens, and past and current city officials who made comments to the Committee.
- This structure is common in comparable Massachusetts municipalities.

Cons:

- This structure is in contravention to a strict division between the executive and legislative branches of government.
- This structure was not endorsed by the vice-chair of the school committee, who pointed out that the city's interests and the school committee's interests are not always aligned.
- This structure has been facilitated by the election of education-minded mayors, a variable that cannot be depended on.

#### **IV. APPOINTING AUTHORITY**

Characteristics:

- Nomination of appointments will continue to be the exclusive power of the mayor, subject to confirmation or rejection by the city council.

Pros:

- This structure still allows for city councilors to recommend the nomination of citizens with a letter of reference to the mayor.
- This structure is efficient, and avoids embarrassing competing nominees in city council meetings.

Cons:

- This structure denies city councilors and citizens (the latter by petition of 50 voters) the power to nominate citizens to city boards.
- This structure concentrates executive power over city boards.

## \_\_\_ . CITIZEN ACCESS

The Committee considered four processes by which citizens can initiate direct access to city government: The Free Petition, the Initiative Petition, the Referendum and Recall. Of these, the current charter provides for the Initiative Petition and the Referendum. The other two processes would be additions to the new Charter. The Committee unanimously agreed to maintain the Initiative Petition and the Referendum, and the procedure for each of those provisions has been modernized in the draft charter. The Committee declined to adopt the two additional provisions in light of their inherent deficiencies and in light of only minimal public support.

### **I. The Initiative Petition**

#### Characteristics:

- A resident of the city can put a proposed measure before the City Council or School Committee by obtaining the signatures of 15% of the registered voters as of the last municipal election.
- The City Council or School Committee may adopt the measure, pass a measure in lieu of the proposal or reject the measure.
- If the measure is rejected, the petitioners may obtain signatures in the number of an additional 5% of registered voters as of the last municipal election. If the measure is again rejected, the City Council is required to put the issue to a city election.
- The measure will pass if (a) 20% of the voters as of the most recent city election vote on this issue; and (b) the measure passes by a majority of persons voting

#### Pros:

- The citizens have access to the City Council or School Committee if either body has failed or refused to raise an issue in the normal course of business which is important to citizens
- The percentage of petitioners needed strikes a balance between (a) creating such easy accessibility that the smooth functioning of government might be disrupted and (b) erecting unreasonable barriers to citizen action

Cons:

- None

## **II. Referendum**

Characteristics:

- Repeal of an existing measure of the City Council or School Committee
- Petition requires 12% of registered voters as of the last municipal election
- Upon receiving the petition, the City Council or School Committee must immediately reconsider the protested measure
- If it is not rescinded, the City Council must schedule an election

Pros:

- Referendum is a common provision in city charters
- It provides a method for repeal of an offending measure

Cons:

- None

## **III. The Free Petition**

Characteristics:

- One hundred citizens can request action by the City Council or School Committee on any issue
- The City Council or School Committee must hold a public hearing and take action on the petition (adopt it, reject it, table it or refer it to committee) no later than 6 weeks after filing

Pros:

- Extremely easy access to elected officials
- A simple procedure for resolution of the issue

Cons:

- If overused, it can disrupt the normal flow of City Council or School Committee business

### **III. RECALL**

Characteristics:

- Procedure to remove an elected officials before the end of the term
- Not often used in cities (Only 8 Massachusetts cities have a recall provision in their charters)

Pros:

- It is a method for removing an incompetent elected official from office

Cons:

- There are no standards for determining incompetence. The subjective nature of the procedure means it can be misused by any group of citizens
- The recalled official was elected by the people to begin with
- There are other provisions in the charter for filling a vacancy if the official is unable to serve
- The recalled official can run again at the next election, triggering a possible repetition of the recall/re-election process. This has occurred in other states
- The procedure can cause a high degree of civic unrest

The Committee agreed that the potential disruption in city government that could be caused by the Free Petition and the Recall outweighed any positive value in adopting these two processes. Neither was included in the draft charter.

## CITY ELECTIONS

This Charter topic resulted in the greatest range of disagreements among Committee members. We all agree it is in the best interest of Northampton to have an election process that encourages a broad range of candidates to run for public office and encourages a large number of citizens to vote. Some members feel strongly that a well-constructed election process must result in a candidate's winning an election by a majority and not by a plurality.

The committee considered the following options:

### **OPTION I. RETAINING PRELIMINARY ELECTIONS**

#### PROS:

- Preliminary elections result in a small enough field of candidates that the vote usually results in a majority for the winner. Most Committee members feel a candidate should win by a majority and not a plurality. Some Committee members do not object to a candidate winning by a plurality and not a majority. Without the preliminary, there is a possibility a candidate will win with only a plurality or that multiple candidates from a similar viewpoint will split the vote and the candidate with the highest number of votes will win but will not represent the viewpoint of the majority of voters.

#### CONS:

- Preliminary elections favor incumbents
- Preliminary elections favor the wealthy
- Preliminary elections favor well-known candidates
- Preliminary elections discourage little known and minority candidates from running
- Preliminary elections reduce the field of candidates before voters have a good opportunity to learn about the candidates' platforms
- There is low voter turnout at Preliminary elections
- Every extra election is expensive for the taxpayers (about \$15,000)

### **OPTION II. INTRODUCING RUN-OFF ELECTIONS INSTEAD OF PRELIMINARY ELECTIONS**

#### PROS:

- No candidate is eliminated early (as occurs in a preliminary election), and a diversity of candidates is preserved at the general election

CONS:

- A run-off election would have to take place in mid-December or later and would probably result in a very low turnout.

NOTE: No city or town in Massachusetts uses run-off elections. Research needs to be done to determine whether or not we could adopt this approach under Massachusetts election laws. Other unanswered-questions arise as well. For example, would the City Clerk have to provide an opportunity for new voter registration after the general election and before the run-off?

**OPTION III. ALLOW ONLY A GENERAL ELECTION (NO PRELIMINARY, NO RUN-OFF, NO IRV)** (THIS OPTION WOULD RESULT IN THE HIGHEST VOTE-GETTER WINNING THE ELECTION)

PROS:

- There is only one election to pay for
- It is a simple process
- It encourages a diverse field of candidates

CONS:

- A winner could achieve a plurality but not a majority
- Multiple candidates with similar views may split the vote and a candidate with the highest number of votes may then not represent the views of the majority of voters

**OPTION IV. ADOPT INSTANT RUN-OFF VOTING ("IRV")**

IRV, also known as "Ranked Choice Voting" enables a voter to vote for his or her first choice while ranking all candidates in order. If no candidate receives over 50% of the vote, the candidate with the least number of votes is eliminated, and the voters who ranked that candidate first have their votes recast to their second choice candidate. This process is repeated until one candidate obtains over 50% of the vote. This method has been used in some US cities (Cambridge, MA, San Francisco, CA and Portland, ME) and in some foreign countries.

PROS:

- One election eliminates the need for preliminary and run-off elections
- It allows voters to express their first choice without "throwing away" their vote
- It ensures a winner who obtains a majority
- It enhances the possibility of a diverse field of candidates

CONS:

- It can be confusing for voters and requires voter education
- It is new and has not been widely tested

There are three barriers to our being able to recommend a specific election process. First, Massachusetts is in the process of promulgating new statutes and/or regulations regarding elections. We do not know when those changes might take effect, and any change we make in the city's election procedures may not comply with the new statutes and/or regulations regarding elections. Second, the committee is intrigued by the concept of Instant Run-off Voting ("IRV") described above, but we had insufficient time for adequate research into this emerging election method. Third, our voting machines are out of date and will have to be replaced soon at high cost. We do not know the technological capacity of any new machines we might purchase.

Retaining the current election system, with its requirement for a preliminary election whenever the number of candidates for a position is more than double the number of available seats for that position, causes the city additional expense and fails to cure the concerns regarding preliminary elections expressed above.

Nevertheless, adopting a new system or even tinkering with the current system when new state regulations are on the horizon seemed to the committee to be unwise. It is possible that any change we make could violate the expected statewide changes.

For all these reasons, the committee agreed to not to recommend any change to the city's current election procedures at this time. The Charter Committee ~~agrees/recommends~~ that the City Council establish a commission to study the several emerging modern election options and report to the city after all the options are fully vetted.

